

HOUSE BILL NO. 154

INTRODUCED BY P. TUSS

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO NURSING LICENSING; ELIMINATING LICENSING OBLIGATIONS FOR MEDICATION AIDES; REVISING DEFINITIONS; AMENDING SECTIONS 37-8-101, 37-8-102, 37-8-202, AND 37-20-303, MCA; AND REPEALING SECTIONS 37-8-422, 37-8-423, 37-8-424, 37-8-425, AND 37-8-426, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 37-8-101, MCA, is amended to read:

**"37-8-101. Purpose.** To safeguard life and health, a person practicing or offering to practice:

(1) professional nursing in this state shall submit evidence that the person is qualified to practice and is licensed as provided in this chapter;

(2) practical nursing in this state shall submit evidence that the person is qualified to practice and is licensed as provided in this chapter;

~~(3) as a medication aide in this state shall submit evidence that the person is qualified to practice and is licensed as provided in this chapter."~~

**Section 2.** Section 37-8-102, MCA, is amended to read:

**"37-8-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202.

(2) "Board" means the board of nursing provided for in 2-15-1734.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15,

1 part 17.

2 ~~(4) "Medication aide I" means a person who in an assisted living facility uses standardized procedures~~  
3 ~~in the administration of drugs, as defined in 37-7-101, that are prescribed by a physician, naturopathic~~  
4 ~~physician, physician assistant, optometrist, advanced practice registered nurse, dentist, osteopath, or podiatrist~~  
5 ~~authorized by state law to prescribe drugs.~~

6 ~~(5) "Medication aide II" means a person who in a long-term care facility licensed to provide skilled~~  
7 ~~nursing care, as defined in 50-5-101, uses standardized procedures in the administration of drugs, as defined in~~  
8 ~~37-7-101, that are prescribed by a physician, naturopathic physician, physician assistant, optometrist, advanced~~  
9 ~~practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe drugs.~~

10 ~~(6)~~(4) "Nursing education program" means any board-approved school that prepares graduates for  
11 initial licensure under this chapter. Nursing education programs for:

12 (a) professional nursing may be a department, school, division, or other administrative unit in a  
13 junior college, college, or university;

14 (b) practical nursing may be a department, school, division, or other administrative unit in a  
15 vocational-technical institution or junior college.

16 ~~(7)~~(5) "Practice of nursing" embraces the practice of practical nursing and the practice of professional  
17 nursing.

18 ~~(8)~~(6) (a) "Practice of practical nursing" means the performance of services requiring basic  
19 knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing  
20 procedures. The practice of practical nursing uses standardized procedures in the observation and care of the  
21 ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the  
22 administration of medications and treatments prescribed by a physician, naturopathic physician, physician  
23 assistant, optometrist, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state  
24 law to prescribe medications and treatments. These services are performed under the supervision of a  
25 registered nurse or a physician, naturopathic physician, physician assistant, optometrist, dentist, osteopath, or  
26 podiatrist authorized by state law to prescribe medications and treatments.

27 (b) These services may include a charge-nurse capacity in a long-term care facility that provides  
28 skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a

1 registered nurse.

2 ~~(9)(7)~~ "Practice of professional nursing" means the performance of services requiring substantial  
 3 specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of  
 4 nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis,  
 5 planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention,  
 6 casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term  
 7 also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice  
 8 and the administration of medications and treatments prescribed by physicians, naturopathic physicians,  
 9 physician assistants, optometrists, advanced practice registered nurses, dentists, osteopaths, or podiatrists  
 10 authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable  
 11 and responsible to the consumer for the quality of nursing care rendered. As used in this subsection ~~(9)~~ (7):

12 (a) "nursing analysis" is the identification of those client problems for which nursing care is  
 13 indicated and may include referral to medical or community resources;

14 (b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish  
 15 defined goals."

16

17 **Section 3.** Section 37-8-202, MCA, is amended to read:

18 **"37-8-202. Organization -- meetings -- powers and duties.** (1) The board shall:

19 (a) meet annually and elect from among the members a president and a secretary;

20 (b) hold other meetings when necessary to transact its business;

21 (c) prescribe standards for schools preparing persons for registration and licensure under this  
 22 chapter;

23 (d) provide for surveys of schools at times the board considers necessary;

24 (e) approve programs that meet the requirements of this chapter and of the board;

25 (f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license,  
 26 or removal of schools of nursing from the approved list;

27 (g) cause the prosecution of persons violating this chapter. The board may incur necessary  
 28 expenses for prosecutions.

1 (h) adopt rules regarding authorization for prescriptive authority of advanced practice registered  
2 nurses. If considered appropriate for an advanced practice registered nurse who applies to the board for  
3 authorization, prescriptive authority must be granted.

4 (i) adopt rules to define criteria for the recognition of registered nurses who are certified through a  
5 nationally recognized professional nursing organization as registered nurse first assistants; and

6 (j) establish a medical assistance program to assist licensees who are found to be physically or  
7 mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug  
8 or substance or by mental illness or chronic physical illness. The program must provide for assistance to  
9 licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward  
10 rehabilitation. The board shall ensure that a licensee who is required or volunteers to participate in the medical  
11 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to  
12 enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a  
13 qualified treatment program outside the state unless the board finds that there is no qualified treatment program  
14 in this state. For purposes of funding this medical assistance program, the board shall adjust the renewal fee to  
15 be commensurate with the cost of the program.

16 (2) The board may:

17 (a) participate in and pay fees to a national organization of state boards of nursing to ensure  
18 interstate endorsement of licenses;

19 (b) define the educational requirements and other qualifications applicable to recognition of  
20 advanced practice registered nurses. Advanced practice registered nurses are nurses who must have  
21 additional professional education beyond the basic nursing degree required of a registered nurse. Additional  
22 education must be obtained in courses offered in a university setting or the equivalent. The applicant must be  
23 certified or in the process of being certified by a certifying body for advanced practice registered nurses.  
24 Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and  
25 clinical nurse specialists.

26 ~~(c) establish qualifications for licensure of medication aides, including but not limited to educational~~  
27 ~~requirements. The board may define levels of licensure of medication aides consistent with educational~~  
28 ~~qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the~~

1 ~~type of drugs that are allowed to be administered and the method of administration.~~

2 ~~(d)~~(c) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons;

3 ~~(e)~~(d) adopt rules necessary to administer this chapter; and

4 ~~(f)~~(e) fund additional staff, hired by the department, to administer the provisions of this chapter."

5

6 **Section 4.** Section 37-20-303, MCA, is amended to read:

7 **"37-20-303. Exemptions from licensure requirement.** (1) This chapter does not prohibit or require a  
8 license as a physician assistant for the rendering of medical or medically related services if the service  
9 rendered is within the applicable scope of practice for any of the following individuals:

10 (a) a physician assistant providing services in an emergency or catastrophe, as provided in 37-20-  
11 410;

12 (b) a federally employed physician assistant;

13 (c) a registered nurse, an advanced practice registered nurse, or a licensed practical nurse, ~~or a~~  
14 ~~medication aide~~ licensed or authorized pursuant to Title 37, chapter 8;

15 (d) a student physician assistant when practicing in a hospital or clinic in which the student is  
16 training;

17 (e) a physical therapist licensed pursuant to Title 37, chapter 11;

18 (f) a medical assistant, as provided in 37-3-104;

19 (g) an emergency care provider licensed pursuant to Title 50, chapter 6; or

20 (h) any other medical or paramedical practitioner, specialist, or medical assistant, technician, or  
21 aide when licensed or authorized pursuant to laws of this state.

22 (2) A licensee or other individual referred to in subsection (1) who is not a licensed physician  
23 assistant may not use the title "PA" or "PA-C" or any other word or abbreviation to indicate or induce others to  
24 believe that the individual is a physician assistant."

25

26 **NEW SECTION. Section 5. Repealer.** The following sections of the Montana Code Annotated are  
27 repealed:

28 37-8-422. Medication aide I -- scope of practice.

- 1 37-8-423. Medication aide II -- qualifications.
- 2 37-8-424. Medication aide II -- scope of practice.
- 3 37-8-425. Medication aide -- title.
- 4 37-8-426. Medication aide II -- implementation.

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